

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL CASE NO. 3:20-cv-00601-MR

TRACEY TERRELL GRADY,)
Plaintiff,)
vs.)
FNU ROGERS, et al.,) ORDER
Defendants.)

THIS MATTER is before the Court on Plaintiff's "Motion to Legally Amend ... [and] Consolidate...." [Doc. 12].

The pro se Plaintiff filed the Complaint pursuant to 42 U.S.C. § 1983 addressing incidents that allegedly occurred at the Union County Jail (“UCJ”) where he is a pretrial detainee on charges including second-degree kidnapping and forcible rape.¹ [Doc. 1]. The Complaint is largely duplicated in a subsequently-filed § 1983 action in this Court, Grady v. Cathey, Civil Case No. 3:20-cv-00682-MR.

The Plaintiff filed the instant Motion in this case as well as in Civil Case No. 3:20-cv-000682-MR. The Plaintiff claims to have mistakenly mailed the

¹See <http://sheriff.co.union.nc.us/InmateDetail.aspx?navid=637630033007223750> (last accessed July 27, 2021).

same complaint twice, resulting in two cases.² He asks the Court to consolidate the cases, allow him to amend, and to proceed with “just one Complaint....” [Doc. 9 at 1].

The “Motion to Legally Amend ... [and] Consolidate....” is construed as a Motion to Amend the Complaint in the instant case, and as a Notice of Voluntary Dismissal in Civil Case No. 3:20-cv-00682-MR. A plaintiff may amend the complaint once as a matter of course within 21 days after serving the complaint, or within 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), which is earlier. Fed. R. Civ. P. 15(a)(1). A plaintiff may subsequently amend with permission from the court which “shall be freely granted when justice so requires.” Fed. R. Civ. P. 15(a)(2).

The Plaintiff’s Motions to Amend will be granted, subject to all applicable rules and procedural requirements. Plaintiff shall have thirty (30) days in which to amend his Complaint. The Plaintiff must submit his Amended Complaint on a § 1983 form, clearly identify the Defendants against whom he intends to proceed and set forth facts describing how each of the Defendants allegedly violated his rights. See generally Fed. R. Civ. P.

² The Complaint in the instant case and in Civil Case No. 3:20-cv-000601 are not identical.

10(a). The Amended Complaint will replace the original Complaint; piecemeal amendment will not be permitted. If Plaintiff fails to timely amend his Complaint in accordance with this Order, the Court will proceed on his original Complaint [Doc. 1].

IT IS, THEREFORE, ORDERED that Plaintiff's "Motion to Legally Amend ... [and] Consolidate...." [Doc. 12] is construed as a Motion to Amend the Complaint in the instant case and is **GRANTED**, and the Plaintiff shall have **thirty (30) days** in which to amend his Complaint in accordance with the terms of this Order. If the Plaintiff fails to amend the Complaint in accordance with this Order and within the time limit set by the Court, this action will proceed on the original Complaint [Doc. 1].

The Clerk is instructed to mail Plaintiff a blank prisoner § 1983 complaint form along with a copy of this Order.

IT IS SO ORDERED.

Signed: July 28, 2021



Martin Reidinger
Chief United States District Judge

